



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

#33

Appl. No. : 09/203,500  
Applicant : HONOLD et al.  
Filed : December 1, 1998  
TC/A.U. : 1636  
Examiner : W. Sandals

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AUG 20 2004

**OFFICE OF PETITIONS**

Docket No. : 2923-301  
Customer No. : 6449  
Confirmation No. : 4303

**REQUEST FOR RECONSIDERATION OF PETITION**  
**UNDER 37 CFR §1.137(b)**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, Virginia 22313-1450

Sir:

In response to the decision to dismiss applicant's petition mailed on July 15, 2004, applicants hereby submit a request for continued examination.

The petition for revival of the application was filed along with a response to the office action dated April 22, 2002. The decision on the petition indicates that the response did not put the claims in condition for allowance and thus the petition was dismissed. Attached to this request is a copy of the decision, a request for continued prosecution (RCE) and a copy of the petition filed on April 18, 2003.

In the event this paper is not considered to be timely filed, the Applicant respectfully petitions for an appropriate extension of time. Any fee for such an extension together with any additional fees that may be due with respect to this paper, may be charged to Counsel's Deposit Account No. 02-2135.

Respectfully submitted,

By  \_\_\_\_\_

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Paper 32

**COPY**

ROTHWELL, FIGG, ERNST & MANBECK, P.C.  
1425 K STREET, N.W.  
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WASHINGTON DC 20005

In re Application of  
Konrad Honold et al.  
Application No. 09/203,500  
Filed: December 1, 1998  
Attorney Docket No. 2923-0301

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ROTHWELL FIGG ERNST & MANBECK  
JUL 17 2004  
REFERRED TO RBM/mek  
FILE NO. 2923-301  
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JUL 15 2004

OFFICE OF PETITIONS

ON PETITION

This is a decision on the petition, filed April 18, 2003 under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **DISMISSED**.

Any further petition to revive the above-identified application must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(b) are permitted. The reconsideration request should include a cover letter entitled "Petition under 37 CFR 1.137." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

This application became abandoned for failure to timely reply to the final Office Action mailed April 22, 2002. No response having been filed, this application became abandoned on July 23, 2002. Accordingly, a Notice of Abandonment was mailed January 22, 2003.

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by:

(1) the required reply (unless previously filed), which may be met by the filing of a continuing application in a nonprovisional application abandoned for failure to prosecute, but must be the payment of the issue fee or any outstanding balance thereof in an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof;

(2) the petition fee required by 37 CFR 1.17(l);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and

(4) a terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) in a design application, a utility application filed before June 8, 1995, or a plant application filed before June 8, 1995.

The petition does not satisfy requirement (1) above.

The application became abandoned for failure to file a response within the meaning of 37 CFR 1.113 to the final rejection of April 22, 2002, within the time period for response. The only proper reply to a final Office action is an amendment placing the application in *prima facie* condition for allowance, a Notice of Appeal accompanied by the requisite fee, a Request for Continued Examination (RCE) accompanied by a proper submission, or a continuing application. Since the amendment submitted with the petition has been referred to the examiner, who has indicated that the amendment does not *prima facie* place the application in condition for allowance, the response required for a renewed petition must be a Notice of Appeal and requisite fee, or the filing of a continuing application under the terms set forth in 1031 O.G. 11.

Petitioner must submit a proper reply to the final Office action mailed on April 22, 2002, with any renewed petition. **Petitioner should note that submission of any renewed petition without the required reply will be construed as intentional delay.**

Further correspondence with respect to this matter should be addressed as follows:

By mail:        Mail Stop Petitions  
                  Commissioner for Patents  
                  P.O. Box 1450  
                  Alexandria VA 22313-1450

By FAX:        (703)872-9306  
                  ATTN: Office of Petitions

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney, at (703) 305-4497.



Patricia Faison-Ball  
Senior Petitions Attorney  
Office of Petitions